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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,959	07/10/2001	Farhad Pezeshki	06944.0038	7174

27871 7590 07/28/2005

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EXAMINER

LIPMAN, JACOB

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,959

Applicant(s)

PEZESHKI ET AL

Examiner

Jacob Lipman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 6-10 and 26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/14/01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 1-5 in the reply filed on 18 April 2005 is acknowledged. The traversal is on the ground(s) that claim 26 is believed to be generic to both claims 1 and 6. This is not found persuasive because claim 26 is also separate and independent from claims 1-5.

The requirement is still deemed proper and is therefore made FINAL.

2. Newly submitted claim 26 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claim 26 includes associating each of the branches with a respective set of addresses, while claim 1 includes determining a branch based on a random number. The claims are related as combinations usable together, but each could exist without the unique limitations of the other.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 26 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Canada on January 11 and 15 of 1999. It is noted, however, that applicant has not filed a certified copy of the applications as required by 35 U.S.C. 119(b).

Information Disclosure Statement

4. The examiner has considered the information disclosure statement (IDS) submitted on 14 November 2001.

Drawings

5. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities:

Page 4 lines 28-29 recites, "(54) and includes code blocks identified as b,c,d and e." In figure 2 54 does not include blocks d and e.

Page 7 lines 25-26 recites, "(102) and includes code blocks identified as blocks g and h." 102 also includes block i.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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8. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "A method of masking a jump operation in a cryptographic processor". It is unclear if the processor is doing the masking, or if some external processor is masking the jump on the cryptographic processor.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 1-5, as best understood, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A method of masking is claimed, but the hardware performing the method is not disclosed, thus there is no tangible output claimed.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-5, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant admitted prior art in view of Deitel et al., in C++ How to Program.

With regard to claims 1, 2, 4, and 5, applicant discloses a "typical conditional jump" which is determined by evaluating a distinguishing value (V) against a reference value (TH Figure 1 line 3) where the reference value is bounded by an upper and lower limit (Figure 1 line 1) directing a program to one of two branches (Figure 1 lines 3-6) computing a address derived from said distinguishing value and a random number (each step in the for loop computes a new V based on the original V and TH, Figure 1 lines 2-3). Applicant does not disclose that for each evaluation a different number of instructions are executed. Deitel shows that it is well known to have different instructions in statements1 and statements2 of an if/else statement (page 61). It would have been obvious to one of ordinary skill in the art to have different instructions in statements1 and statements2 to have the condition implement different purposes.

With regard to claim 3, the examiner takes official notice that subroutines often change the return of a routine. It would have been obvious to one of ordinary skill in the art that subroutines could be used in this conditional jump to vary the uses.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Lipman whose telephone number is 571-272-3837. The examiner can normally be reached on M-Th 7 AM-3 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 571-272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL



David Y. Jung
Primary Examiner

7/22/08